

REMARKS

Claims 32-33, 36-38, 40-41, 43-45, and 47-54 remain pending in the application with the present amendments. In the Office Action, all claims were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,872,588 to *Aras et al.* ("Aras"), in view of U.S. Patent No. 6,298,482 B1 to *Seidman et al.* ("Seidman"), or as obvious over *Aras*, in view of *Seidman* and further in view of U.S. Patent No. 5,053,883 to *Johnson* ("Johnson").

Presently amended claim 32 sets forth an invention in which a broadcast-program selection history information acquisition apparatus is operable in a system including a multiplicity of such broadcast-program selection history information acquisition apparatuses. The apparatus includes a storage means operable to store selection information regarding the selection of broadcast programs at *predetermined acquisition times* from among programs which are broadcast on a plurality of channels. A transmission timing is assigned at random in accordance with an intrinsic random number and is assigned within a predetermined restricted range of hours beginning at a predetermined time of day. A transmission means included in the apparatus is operable to transmit periodically selection history information to the notification destination at the assigned transmission timing, and not in response to a data transfer request from a device external to the apparatus. Apparatus claim 47 and method claim 40 contain similar recitations. For the reasons set forth below, applicant respectfully submits that the presently pending claims are distinguished from the references cited by the Examiner to reject the claims. Reconsideration and withdrawal of the rejections are respectfully requested.

As discussed in applicant's responses to the previous rejections, *Aras* merely describes transmitting information

regarding program selections upon occurrence of a particular event, such as when the information acquisition unit is powered on, powered off, or a storage table at the unit becomes full (col. 16, lns. 34-51; col. 17, lns. 15-20). *Aras* clearly does not teach *periodically* transmitting information at a transmission timing assigned at random. Moreover, *Johnson* merely describes transmitting information upon receipt of a polling signal including a data transfer request from the head end of a system. Thus, *Johnson* clearly does not teach the presently claimed apparatus in which transmitting is performed *periodically* at a transmission timing assigned at random and not in response to a data transfer request received from a device external to the broadcast-program selection history information acquisition apparatus.

Moreover, the combination of *Aras* and *Johnson* with *Seidman* neither teaches nor suggests the invention claimed in claim 32. *Seidman* merely describes transmission of information during a particular time of day, e.g., during early morning hours. *Seidman* does not teach *periodic* transmission of information at a transmission timing which is based on a random number and which is not in response to a data transfer request by a device external to the broadcast-program selection history information acquisition apparatus. Claims 40 and 47 which contain similar recitations are allowable for the same reasons as discussed above.

Johnson fails to teach or suggest other features which *Aras* lacks with respect to the invention recited in claims 32, 40 and 47. *Johnson* neither teaches nor suggests a *broadcast-program selection history information acquisition apparatus* which functions to acquire selection information regarding the selection of broadcast programs and to transmit selection history information including a plurality of pieces of the selection information. *Johnson* merely teaches an "in-room box"

(IRB) for use as an information terminal in a network, such as may be used to provide in-room services in a hotel. The information terminal of Johnson does not acquire selection history information or transmit it. Thus, *Johnson* is not a proper reference to combine with *Aras*. A person of ordinary skill in the art would not normally turn to a reference such as *Johnson*, which relates merely to an information terminal, in seeking to address a problem relating to a *broadcast-program selection history information acquisition apparatus* such as presently claimed, in which a specific type of information is collected and transmitted in a specific way to a notification destination.

Moreover, none of the art cited by the Examiner, alone or in combination, teaches or suggests the invention as particularly recited in claims 33 and 41. None of the cited references teaches or suggests a broadcast-program selection history information acquisition apparatus which includes a transmission timing assignment means, as claimed in claim 33, which is operable to assign a transmission timing based on a telephone number assigned to a telephone line. Nor do any of the cited references teach or suggest a method, as claimed in claim 41, of transmitting selection history information at an intrinsic transmission timing which is assigned by a device performing said transmitting based on a telephone number assigned to a predetermined telephone line.

In addition, none of the references cited by the Examiner, alone or in combination, teaches or suggests the particular features of the invention recited in claims 51-54. *Aras* merely teaches an apparatus which transmits, upon occurrence of certain events, information regarding selected broadcast programs. *Seidman* does not provide the teachings which *Aras* lacks. Instead, *Seidman* teaches against the invention claimed in claim 51. As stated at column 6,

lings 38-45, the microcontroller for the system described in *Seidman* determines, each time the system is powered on, whether a periodic historical report is due to be sent. If such report is due, it is then sent by the system to the head end. *Seidman* describes all these actions occurring but does not describe any intervention being required on the part of the user. By contrast, the broadcast-program selection history information acquisition apparatus claimed in claim 51 requires an authorizing input after a loss of power, prior to causing selection history information to be stored and/or transmitted after power is restored.

Further, *Seidman* merely describes user control over the content of certain "personal" information to be transmitted. *Seidman* does not teach, as claimed in claim 51, the requirement of user authorizing input after *each* restoration of power after a loss of power, to enable the subsequent storage and/or transmission of any selection information.

Support for the present amendments is provided, *inter alia*, at page 27, lines 22-25; at page 28, line 5 through page 29, line 16; page 36, lines 12-19; and at page 37, lines 4-8.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone the undersigned attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

Application No.: 09/238,261

Docket No.: SONYJP 3.0-051

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 18, 2004

Respectfully submitted,

By


Daryl K. Neff

Registration No.: 38,253

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant

519714_1